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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/257,917	02/26/1999	KIYOKI SEKINE	RYU109	3168

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WASHINGTON, DC 20005

EXAMINER

STEVENS, ROBERTA A

ART UNIT	PAPER NUMBER
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2665

73

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/257,917

Applicant(s)

SEKINE, KIYOKI

Examiner

Roberta A Stevens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 3,4,9-13 and 18-44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 5, 6, 15-17, are rejected under 35 U.S.C. 102(e) as being anticipated by Seshadri (U.S. 5751739).

3. Regarding claim 1, Seshadri teaches (figures 10 and 11) a communication station for transmitting first data and second data, comprising: an encoder (1102, 1104) for coding the first and second data; a multiplexer (1106) for multiplexing the coded first and second data; a transmitter (1016) for transmitting a signal including the multiplexed first and second data to another station, the first and second data being transmitted at a first and second transmission power level; and a transmission power controller (1014) for receiving transmission power control information from the other station and for controlling one of the first and second transmission power level independent of each other (columns 12-13).

4. Regarding claims 2 and 17, Seshadri teaches (columns 12-13) the transmission power control information includes first and second control nits; and the first and second gains are changed based on the first and second bits, and either the first gain or the second gain are change based on the second bit.

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5. Regarding claim 5, Seshadri teaches (figures 10 and 11) a communications station for receiving first data and second data transmitted from another communications station, the first data and the second data being transmitted at a first and second transmission power level respectively, comprising: a receiver for receiving a signal including the first data and the second data; a processor for decoding the first and second data; a control information generator for generating a transmission power control information based on the first and second data received by the receiver, the transmission power control information causing control of one of the first transmission power level and the second transmission power level independently of the other; and a transmitter for transmitting the transmission power control information to the other communication station; wherein the first and second data are multiplexed with each other (columns 12-13).

6. Regarding claim 6, Seshadri teaches (columns 12-13) the control information is generated to reduce a difference between a first difference between a required received quality and an actual received quality of the first data and a second difference between a required quality and an actual received quality of the second data.

7. Regarding claim 15, Seshadri teaches (figures 10 and 11) a communication system comprising: a first communication station for transmitting a signal including first and second data at first and second transmission power level; and a second communication station for receiving the first data and the second data transmitted from the first communication station, wherein: the second communication station generates transmission power control information based on the received first and second data, and transmits the generated transmission power control information to the first communication station, and the first communication station receives the transmission

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power control information from the second communication station, and controls one of the first transmission power level independently of the other based on transmission power control information, wherein the first data and the second data are multiplexed with each other.

8. Regarding claim 16, Seshadri teaches (columns 12-13) the first station includes a transmission power controller that controls the first gain of the first and the second gain of the second data independently of each other, thereby controlling the first transmission power level and the second transmission power level (figure 11).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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11. Claim 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri in view of Yano (U.S. 6335924 B1).

12. As mentioned above Kondo teaches all of the limitations of claims 1 and 5.

13. Seshadri does not teach representing the first and second data by a frame error rate or a signal-to-noise ratio.

14. Yano teaches (abstract) transmitting signal-to-noise ratio to the base station. It would have been obvious to one of ordinary skill in this art to adapt Yano's concept to Seshadri's system to enhance power control in the system.

Allowable Subject Matter

15. Claim 14 is allowed.

16. Claims 3,4,9-13 and 18-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

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18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

20. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 872-9306

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

04-02-04



STEVEN H. D. NGUYEN
PRIMARY EXAMINER